

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

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3
4 In the Matter of)

5)
6 Subandi Tanuwidjaja)

MUR 4530

7 Suryanti Tanuwidjaja)

8 Arief Wiriadinata)

9 Soraya Wiriadinata)

10 Kyung Hoon "John" Lee¹)

11 Jessica Elnitiarta)

12 Panda Estates Investment, Inc.)

13 Ted Sioeng)
14

15 **GENERAL COUNSEL'S REPORT**

16
17 I. **ACTIONS RECOMMENDED**

18 Take no further action and close the file regarding Subandi Tanuwidjaja, Suryanti

19 Tanuwidjaja, Arief Wiriadinata, Soraya Wiriadinata, and Kyung Hoon "John" Lee. Sever

20 respondents Jessica Elnitiarta, Panda Estates Investment, Inc. and Ted Sioeng from MUR

21 4530 and open a new MUR as to these respondents.

22 II. **BACKGROUND**

23 This matter involves over \$3 million in illegal contributions to the Democratic

24 National Committee ("DNC") that were made with funds from foreign nationals through

25 domestic conduits. See 2 U.S.C. §§ 441e(a) and 441f and General Counsel's Briefs to the

26 DNC dated October 12, 2000 and January 22, 2001.

27 This Office previously advised the Commission of our ultimate intention to

28 recommend no further action regarding the Tanuwidjajas, Wiriadinatas, and Lee because they

29 are out of the country and beyond the normal jurisdictional reach of the Commission. See

¹ During the investigation in this matter, this Office learned that Lee's correct name was Kyung Hoon "John" Lee, not John H.K. Lee, the name used in reports at the reason to believe stage. His name was revised accordingly in subsequent reports.

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1 General Counsel's Report dated May 8, 2000, page 6 and chart at Attachment 1, thereto. In a
2 subsequent report, this Office initially recommended that the Commission take no further
3 action and close the file regarding a total of fourteen respondents, including these five
4 respondents. See General Counsel's Report dated August 8, 2001. However, at least one
5 Commissioner expressed some concerns that the respondents in this matter would escape
6 responsibility for their conduct solely because they left the country and suggested that the
7 five-year statute of limitations pursuant to Title 28 U.S.C. § 2462 would be tolled while a
8 respondent is out of the United States.

9 Subsequently, this Office located addresses for Subandi Tanuwidjaja, Suryanti
10 Tanuwidjaja, Arief Wiriadinata, Soraya Wiriadinata, and Kyung Hoon "John" Lee. On
11 September 25, 2001, the Commission voted to take no further action as to the other nine
12 respondents that were addressed in the original August 8, 2001 Report.² See Memorandum
13 to the Commission dated August 29, 2001 and attached General Counsel's Report dated
14 August 28, 2001. At the same time, the Commission also directed this Office to continue
15 efforts to locate the Tanuwidjajas, Wiriadinatas, and Lee. As discussed below, this Office's
16 continued efforts proved fruitless. Since this matter is proceeding toward completion and this
17 Office has been unable to obtain any meaningful response from the Tanuwidjajas,

² This Office's recommendations were based mainly on the fact that this Office was unable to serve individuals who reside outside of the United States and corporations that were defunct and out of business. Recommendations were also made as to some individual respondents who had minor roles in their respective activity.

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1 Wiriadinatas, and Lee, this Office believes that it is appropriate to make the instant
2 recommendations as to them.³

3 **III. DISCUSSION**

4 **A. No Further Action Respondents**

5 **1. Tanuwidjajas**

6 On June 2, 1998, the Commission found reason to believe that Subandi and Suryanti
7 Tanuwidjaja, brother and sister, violated 2 U.S.C. §§ 441e(a) and 441f by using what appear
8 to be foreign funds to make a total of \$100,000 in contributions to the DNC.⁴ See General
9 Counsel's Report dated May 4, 1998 and General Counsel's Brief to the DNC dated January
10 22, 2001 at 114-119 for a detailed discussion of the contributions. Mr. Tanuwidjaja was
11 served with the Commission's reason to believe notice, subpoena, and Order to Submit
12 Written Answers ("order") on June 10, 1998 at an address in Jakarta, Indonesia. He initially
13 telephoned staff after receiving the notice and agreed to respond. After not receiving the
14 promised response, this Office wrote to respondent on January 6, 1999 requesting that he
15 contact this Office immediately upon receipt of the letter. See Attachment 1. This Office
16 never received a response from Mr. Tanuwidjaja. In accordance with the Commission's

³ To date, in this matter and the related MURs 4531, 4547, 4642 and 4909, the Commission has entered into twenty (20) conciliation agreements with twenty-seven (27) respondents, including major respondents like the DNC, John Huang, Yah Lin "Charlie" Trie, Chien Chuen "Johnny" Chung, George Psaltis, and the Hsi Lai Buddhist Temple. Those agreements have resulted in cumulative civil penalties of over \$670,000 from those respondents. This Office has received signed conciliation agreements from two other major respondents, Pauline Kanchanalak and Duangnet Kronenberg, who have agreed to civil penalties of \$25,000 and \$20,000, respectively. Those signed agreements have been submitted for the Commission's approval. If those agreements are approved, the cumulative civil penalties in this matter will be \$719,500.

⁴ The information showed that Subandi made two contributions totaling \$80,000 - a \$60,000 contribution by check dated September 1996 and a \$20,000 contribution by check dated September 19, 1996. Suryanti made a \$20,000 contribution by check dated September 16, 1996.

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1 direction to continue efforts to locate Mr. Tanuwidjaja, this Office provided him with a final
2 opportunity to respond to the Commission's findings, subpoena, and order in a letter dated
3 August 30, 2001. See Attachment 2. Copies of the correspondence were sent to addresses
4 identified for Mr. Tanuwidjaja in the United States. Those correspondences were returned
5 unclaimed. See Attachment 3.

6 Suryanti Tanuwidjaja was served with the Commission's Reason to Believe notice,
7 subpoena, and order on June 10, 1998 at an address in California. See Attachment 4. The
8 materials were received by Ms. Eliza Esguerra, who requested an extension on behalf of
9 Ms. Tanuwidjaja. See Attachment 5. Based on the confidentiality provisions, in a letter
10 dated July 23, 1998 this Office offered to consider Ms. Esguerra's extension request after
11 receiving a designation of counsel form authorizing this Office to engage in discussions with
12 her about Ms. Tanuwidjaja. See Attachment 6. After not receiving a response, this Office
13 wrote to Ms. Tanuwidjaja on January 7, 1999 advising her of the potential result of a failure
14 to comply with the Commission's subpoena or order. See Attachment 7. In accordance with
15 the Commission's direction to continue efforts to locate Ms. Tanuwidjaja, this Office
16 provided her with another opportunity to respond in a letter dated August 30, 2001. See
17 Attachment 8.

18 On September 18, 2001, Ms. Tanuwidjaja telephoned this Office, and staff requested
19 that she submit a written response. Ms. Tanuwidjaja responded on October 3, 2001,
20 explaining that she had not received the June 10, 1998 materials or the July 23, 1998 and
21 January 7, 1999 follow-up letters from this Office. See Attachment 9. In her submission,
22 Ms. Tanuwidjaja acknowledged making the \$20,000 contribution and provided documents

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1 showing that she was a permanent resident of the United States at the time of the contribution
2 and that she currently is a United States citizen. However, she did not provide any
3 information regarding the source of the funds used to make the contributions. In a letter
4 dated November 20, 2001, this Office sought information from Ms. Tanuwidjaja about the
5 source of the funds used to make the contribution and requested that she contact this Office
6 upon receipt of the letter. See Attachment 10. Ms. Tanuwidjaja subsequently telephoned this
7 Office on November 21, 2001 and advised that she had not received the November 20, 2001
8 correspondence, which was sent to an address in Singapore. On November 26, 2001, this
9 Office resubmitted the materials to Ms. Tanuwidjaja at her California address. See
10 Attachment 11. After not receiving the requested response from Ms. Tanuwidjaja, this Office
11 sent her a letter on January 29, 2002 informing her that if we did not receive a response from
12 her we would conclude that she no longer intended to cooperate with the investigation and
13 would proceed accordingly. See Attachment 12. However, Ms. Tanuwidjaja has not
14 contacted this Office since November 26, 2001.

15 2. **Wiriadinatas**

16 On June 17, 1997, the Commission found reason to believe that Arief and Soraya
17 Wiriadinata, husband and wife, violated 2 U.S.C. §§ 441e(a) and 441f by contributing a total
18 of \$450,000 to the DNC using funds obtained from Soraya Wiriadinata's father, Hashim
19 Ning, a foreign national. See First General Counsel's Report dated May 30, 1997 and
20 General Counsel's Brief to the Wiriadinatas dated September 25, 2000. The Wiriadinatas left
21 the U.S. on or about December 17, 1995 and returned to Indonesia. They were served with
22 the Reason to Believe notice, subpoena and order on June 24, 1997 through counsel. This

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1 Office initially granted the Wiriadinatas several extensions of time to submit a response to
2 the Commission's subpoena. On October 6, 1997, the Wiriadinatas provided a joint partial
3 response to the Commission's subpoena.⁵ See Attachment 13. Although they provided some
4 information describing how the contributions were made, they did not provide important
5 details about the contributions, such as their financial assets and the source of the funds used
6 to make the contributions. In a letter dated June 3, 1998, the Wiriadinatas' counsel
7 subsequently informed this Office that he was unable to provide a schedule for the
8 Wiriadinatas to provide the remaining responses to the Commission's subpoena and order
9 because the Wiriadinatas had broken off contact with counsel. See Attachment 14.

10 By letter dated April 15, 1999, this Office sought confirmation from the Wiriadinatas
11 that they were no longer being represented by counsel in efforts to have them complete their
12 response to the Commission's discovery requests. See Attachment 15. That letter was
13 addressed to the Wiriadinatas' residence in Indonesia. On July 12, 1999, this Office sent an
14 identical letter to Mr. Wiriadinata's business address in Indonesia by Federal Express
15 delivery service. See Attachment 16. After not receiving any response from the
16 Wiriadinatas, on September 26, 2000 this Office served a joint Probable Cause Brief on
17 them. The Wiriadinatas did not respond to the Brief.

18 In response to the Commission's instructions given at the September 25, 2001
19 Executive Session, this Office made additional efforts to contact the Wiriadinatas. On

⁵ In their partial response, the Wiriadinatas explained that the contributions were made under an arrangement with John Huang, then the DNC's Vice Chair for Finance, under which they provided Huang with signed checks with the amount included, but with the "payee" and "date" portions blank, prior to them leaving the United States. Huang would then periodically complete the checks with the name of a DNC fundraising account, at his discretion.

September 28, 2001, this Office telephoned the Wiriadinatas in Indonesia. The persons we spoke to stated that they did not speak English and subsequently hung up the telephone. See Attachment 17. On October 4, 2001, this Office also resent a copy of the Brief by Federal Express and by facsimile and requested that the Wiriadinatas contact this Office at their earliest convenience. See Attachment 18. This Office made several additional attempts to contact the Wiriadinatas by telephone, but those efforts were also unproductive. To date, the Wiriadinatas have not responded to this Office's correspondence, telephone communications, or the General Counsel's Brief.⁶

3. Kyung Hoon "John" Lee

On June 17, 1997, the Commission found reason to believe that Kyung Hoon "John" Lee, a foreign national, violated 2 U.S.C. § 441e(a) by using funds from Ateck Company, Ltd. ("Ateck"), a foreign corporation, to make a \$250,000 contribution to the DNC drawn on the account of Cheong Am America, Inc., a U.S. subsidiary of Ateck.⁷ See First General Counsel's Report dated May 30, 1997 and General Counsel's Brief to the DNC dated January 22, 2001 at 22-32 for a detailed description of the contributions. Lee made an additional \$10,000 contribution to the DNC with Ateck's funds. The Commission's Reason to Believe notice, subpoena, and order were sent to Lee on June 24, 1997 at his address in California. After sending the materials, this Office learned that Lee had fled the United States to avoid criminal prosecution for the activity at issue. This Office has been unable to serve Lee with

⁶ The correspondences sent to the Wiriadinatas have not been returned to the Commission as undelivered.

⁷ Both Ateck and Cheong Am were named respondents in the August 28, 2001 revised General Counsel's Report referenced above. The Commission decided to take no further action and closed the file as to both respondents on September 25, 2001.

1 the Commission's Reason to Believe notice, subpoena, and order because he has been out of
2 the country. See Attachment 19. In a final effort to contact Lee, on November 5, 2001, this
3 Office sent copies of the Commission's findings, subpoena, and order by certified mail to an
4 address this Office uncovered for Lee in California. See Attachment 20. This
5 correspondence was received by an Eric Shin. See Attachment 21. However, Lee has not
6 responded to that correspondence to date.

7 **4. Conclusion**

8 This Office has made reasonable and diligent efforts to locate the above respondents
9 and to have them respond to the Commission's findings, subpoenas, and order to no avail.
10 Considering respondents' prolonged absence from the United States and their apparent
11 unwillingness to cooperate with the Commission's investigation, this Office does not believe
12 that additional enforcement efforts would be fruitful. In addition, the five-year statute of
13 limitations has expired. See 28 U.S.C. § 2462. Although there is a question regarding
14 whether the statute of limitations is tolled while individuals are out of the United States, this
15 Office does not recommend further enforcement action against these respondents because of
16 the difficulty and expense of locating and serving them overseas and the fact that the
17 violations occurred during the 1996 election cycle. Accordingly, this Office recommends
18 that the Commission take no further action regarding each of these respondents and close the
19 file as to each of them. This action would enable the Commission to close this entire matter.

20 **B. Respondents To Be Severed**

21 On July 11, 2000, the Commission found probable cause to believe that Jessica
22 Elnitiarta and her company, Panda Estates Investment, Inc. ("Panda"), violated 2 U.S.C.

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1 § 441e(a) by contributing a total of \$166,000 to the DNC using funds obtained from her
2 father, Ted Sioeng, a foreign national. See General Counsel's Report dated June 23, 2000
3 and General Counsel's Brief to Elnitiarta and Panda dated February 11, 2000. After
4 conciliation pursuant to 2 U.S.C. § 437g(a)(4)(A)(i) proved fruitless, the Commission
5 authorized the filing of civil suit on November 28, 2000 pursuant to 2 U.S.C.
6 § 437g(a)(6)(A). See General Counsel's Report dated November 21, 2000.

7 On June 10, 1998, the Commission found reason to believe that Ted Sioeng
8 knowingly and willfully violated 2 U.S.C. §§ 441e(a) and 441f by making contributions
9 to the DNC and to the campaign committee of former California State Treasurer, Mathew
10 "Mat" Fong. Sioeng resides outside the United States, and this Office has not been able
11 to locate him. He was not served with the Commission's reason to believe notice,
12 subpoena and order, and this Office has not had any contact with him during this
13 investigation.⁸

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⁸ This Office is not recommending that the Commission take no further action regarding Sioeng at this time since he is connected to the contributions of Elnitiarta and Panda. This Office will make an appropriate recommendation regarding Sioeng in conjunction with its ultimate recommendations regarding Elnitiarta and Panda.

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As Elnitiarta, Panda, and Sioeng will be the only remaining respondents in this matter (assuming that the Commission approves this Office's previously discussed no further action recommendations and the Pauline Kanchanalak and Duangnet Kronenberg conciliation agreements), this Office believes that it would be appropriate to sever them from this matter. Severing them would enable the Commission to close MUR 4530, which this Office has been investigating since 1997, and the other DNC-related matters - MURs 4531, 4547, 4642 and 4909. Accordingly, this Office recommends that the Commission sever respondents Jessica Elnitiarta, Panda Estates Investment, Inc., and Ted Sioeng from MUR 4530 and open a new MUR as to these respondents.

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V. RECOMMENDATIONS

1. Take no further action and close the file as to Subandi Tanuwidjaja.
2. Take no further action and close the file as to Suryanti Tanuwidjaja.
3. Take no further action and close the file as to Kyung Hoon "John" Lee.
4. Take no further action and close the file as to Arief Wiriadinata.
5. Take no further action and close the file as to Soraya Wiriadinata.
6. Sever respondents Jessica Elnitiarta, Panda Estates Investment, Inc. and Ted Sioeng from MUR 4530 and open a new MUR as to these respondents.
7. Close MUR 4530 and related MURs 4531, 4547, 4642 and 4909.
8. Approve the appropriate letters.

Date

8/21/02

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